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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,174	06/07/2006	Mattheus Jacobus Kaagman	U 016103-4	7243

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EXAMINER	
KNABLE, GEOFFREY L	
ART UNIT	PAPER NUMBER
1791	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,174	KAAGMAN ET AL.	
	Examiner	Art Unit	
	Geoffrey L. Knable	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/7/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 1 and 7, the use of the terms "such as" and "preferably" render the scope of the claim not readily ascertainable as it is not clear if these form positive requirements of the claim and they do not clearly define the metes and bounds of the claim.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

This same issue (“such as” or “preferably”) is present in at least claims 2, 6-8, 10-12, 15, 16 and 18.

In claim 3, line 3, the antecedent for “the image recorder” is indefinite as this is only a preferred feature in claim 1 - it therefore is not clear if claim 3 requires an image recorder.

In claim 8, line 3, the term “near” is indefinite as the scope of protection afforded by this language cannot be readily ascertained. Is this for example intended to require that the slit is “nearer” to the feed side than the discharge side?

In claim 9, line 2, prefacing the reference to the belts with "so-called" arguably renders the scope of this claim indefinite.

Claim 11 defines that the driving means “at the discharge side” drives the main and “*feed* conveyor belts”. However, since the since the feed conveyor belt, as described and claimed, would be located at the "feed side" and thus not at the discharge side, it would not seem this reference to the "feed conveyors belts” is correct. It seems that this should reference the "discharge conveyor belts” rather than the “feed conveyor belts” (if not, then the scope of this claim as well as claim 1 is then entirely indefinite and confusing).

In claim 12, lines 1-4, it is not clear if the building drum forms a positive part of the claimed apparatus - as it is repeatedly referenced in the claim, it would seem to be a required feature of the claim but it would be clearer if more positively defined as such.

In claim 16, line 2, the antecedent for “the axis of rotation" is ambiguous and arguably lacking. In particular, although claim 12 refers to an axis of rotation of the building drum, it does not define an axis of rotation of the tread conveying device as

apparently being defined in claim 16. It appears that claim 16 should depend from claim 15 to provide the required antecedent.

In claim 16, lines 2-3, defining rotating the tread conveying device “substantially parallel” to a tread is indefinite as it is not clear what is meant by rotating a device parallel to a tread. In other words, it is not clear in what way the device is "parallel” to a tread or even what direction defines a “tread" (i.e. defining something parallel to a tread is indefinite as a tread extends in all directions).

In claim 21, line 1, the antecedent for “the measuring means” is indefinite as two different measuring means (that of claim 12 and that of claim 19) are defined.

In claim 22, line 3 and claim 25, line 3, defining “a” tread conveying device raises a potential ambiguity as it is not clear whether it is referring to the tread conveying device detailed in claim 12. It is suggested that this be changed to “said” or “the” tread conveying device if this is the intent. Likewise, claim 22 references a method “using the device according to claim 12" but at present there is no description of how (or even whether) the specific devices of claim 12 are used in the method of claim 22, this raising an ambiguity in assessing the scope of this claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman (US 2003/0019725).

Hoffman discloses a device for conveying strip-shaped material from a feed side to a discharge side, comprising a main conveyor belt (5 and/or 5') extending from the feed side to the discharge side, and auxiliary conveyor belts (4/4' and 6/6') on both sides of the main conveyor belt and which each comprise a feed conveyor belt (4/6) and a discharge conveyor belt (4'/6'), a slit-shaped opening between the feed conveyor belt and the discharge conveyor belt, positioned for on both sides of the main conveyor belt forming a slit (note space between conveyors), and a recorder (9/10/11) above or below the slit (the sensors generate/"record" and transmit information to controllers and therefore are reasonably termed recorders). Although the central conveyor (5 and/or 5') in this reference is coextensive with the adjacent conveyors, the claims at present do

not clearly distinguish the reference structure. As to claims 4-5, the openings are in line and the main conveyor (5 and/or 5') can support a strip over its full length. As to claim 6, note paragraphs [0022]-[0023]. As to claim 7, the conveyor belts are reasonably smooth and are adapted to retain a strip thereon.

6. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 8-58958 to Sato taken in view of Wolf et al. (US 4,807,739).

JP '958 discloses a device capable of conveying strip-shaped material from a feed side to a discharge side, comprising a main conveyor belt (e.g. 92 in fig. 5) extending from the feed side to the discharge side, and auxiliary conveyor belts (91/93) on both sides of the main conveyor belt and which each comprise a feed conveyor belt and a discharge conveyor belt, a slit-shaped opening between the feed conveyor belt and the discharge conveyor belt, positioned for on both sides of the main conveyor belt forming a slit (note esp. fig. 5). JP '958 therefore discloses a conveying device as claimed expect that it does not clearly illustrate a recorder above or below the slit. JP '958 does however suggest use of image detection sensors 17/18 to detect the posture of the items on the conveyor (e.g. fig. 1 and paragraph [0036]-[0042] of the included machine translation). As to locating these adjacent a slit between conveyors, Wolf et al. is directed to a similar article reorienting machine with plural conveyor belts and in particular suggests a suitable and effective location of the sensors is at a downstream end of a respective conveyor and thus adjacent the "slit" between conveyors - note esp. fig. 2 and col. 6, lines 38-53 of Wolf et al. To locate the sensors or recorders above or below an area between conveyors would therefore have been obvious. As to claims 2-

3, use of a lighting unit and control unit responsive to calculations based on an image recorder would have been obvious in view of JP '958 (esp. paragraph [0042]). As to claims 4-5, note fig. 5 of JP '958. As to claims 6-7, the belt conveyors would be capable of retaining a strip material (by virtue of the rubber tack). As to claim 8, the conveyors 91A/93A are shorter than 91B/93B (fig. 5). As to claim 9, toothed conveyor belts are well known and obvious in this art to enable accurate control of movement thereof - Wolf et al. is merely exemplary (e.g. note col. 7, lines 14-17). As to claims 10-11, as the speed of conveyors 91A, 92 and 93A can apparently be equalized (e.g. paragraph [0066] of machine translation), it would have been obvious to utilize a common drive.

7. Claims 12-18 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (US 2003/0019725) taken in view of Kölker et al. (US 6,547,906) and Miller, III (US 4,359,675).

Hoffman, as applied above, discloses a device for aligning edges of especially corded (e.g. steel or textile corded) strips for subsequent splicing, this device meeting the claimed requirements for the tread conveying device for reason already noted. Although tire strips are not explicitly mentioned, the ordinary artisan would have found it obvious to apply the teachings of Hoffman to supplying and aligning corded tire strips for subsequent splicing of the ends thereof on a building drum, as corded strips are typical for tires and they are typically aligned for subsequently splicing on a drum (e.g. Kölker et al. is exemplary). As to a positioning device including measuring and displacement means to control the position of the strip on the drum, both Kölker et al. and Miller, III are directed to applying a strip on a drum with proper alignment and

expressly provide a means to measure the strip position and laterally displace the conveyor on the basis of the determined position to correctly laterally align the strip on the drum. To additionally include positioning means to effect lateral alignment would therefore have been obvious to the ordinary artisan to allow more precise control of the lateral positioning of the strip on the drum - only the expected and predictable results would have been achieved. A device as required by claim 12 would therefore have been obvious.

As to claim 13, the feed and discharge rollers of the main belt would form bearing rollers for the whole device. As to claims 14-16, Miller, III renders obvious providing a lateral movement capability for the conveyor (note means 28/30/31), the lateral motion being effectively a rotation relative to fixed frame 11/14. As to claims 17 and 23, Miller, III suggests aligning to a central reference axis (23); Kölker et al. similarly teaches aligning to a belt center. As to claim 18, Hoffman teaches this as already noted with respect to claim 6. As to claims 22-25, although the references relate principally to corded strips, (e.g. belts), it would have been obvious to apply the teachings therein to any tire components needing alignment including treads, Miller, III especially suggesting lateral adjustment during application.

8. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (US 2003/0019725) taken in view of Kölker et al. (US 6,547,906) and Miller, III (US 4,359,675) as applied above, and further in view of Sergel et al. (US 5,582,664).

To additionally include means to measure and adjust a length of the strip being applied by controlling relative drum and conveyor speeds is well known and obvious in this art to assure proper splice characteristics - Sergel et al. is merely exemplary.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Franklin et al. (US 6,126,383) is another example of a device including a central and lateral conveyor belts (esp. fig. 3) but is at present no more relevant than the applied prior art.

JP 6-336328 discloses a conveyor with length detection using a pair of lateral conveyor belts adjacent a central roller conveyor with detection being in a recessed space between the lateral conveyor runs but is at present no more relevant than the applied prior art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Geoffrey L. Knable/
Primary Examiner, Art Unit 1791

G. Knable
June 15, 2009